

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE GOODYEAR TIRE & RUBBER
COMPANY,

Plaintiff,

V.

CONAGRA FOODS, INC., *et al.*,

Defendants.

Case No. 2:20-cv-06347-MHW-EPD

Hon. Michael H. Watson

Hon. Magistrate Elizabeth A. Preston Deavers

**PLAINTIFF’S RESPONSE TO
DEFENDANTS’ NOTICE OF
SUPPLEMENTAL AUTHORITY**

Plaintiff The Goodyear Tire & Rubber Company (“Goodyear”) hereby responds to Defendants’ Notice of Supplemental Authority (ECF No. 272). Rather than recently issued legal authority or new evidence, Defendants’ “supplemental authority” is a set of discovery requests, which they served twenty-two months ago and already filed with the Court fifteen months ago. More importantly, the discovery requests do not change the fact that there are no settlement agreements relating to any insurance recovery for costs incurred to implement the remedial action at the Site for which Goodyear seeks contribution from the Defendants in this action. Finally, even if the discovery requests were true supplemental authority and relevant, Defendants’ Notice is procedurally improper in that they did not first seek leave to file. *See Tera II, LLC v. Rice Drilling D, LLC*, No. 2:19-CV-2221, 2023 WL 2664415, at *5 (S.D. Ohio Mar. 28, 2023) (“[c]ourts may grant parties leave to file supplemental authority in the interests of justice when the proposed submission contains new authority or evidence that was not available [to the movant] in the exercise of reasonable diligence when the original briefs were filed”) (internal quotations omitted).

Dated: May 13, 2024

Respectfully submitted,

/s/ William J. Hubbard

William J. Hubbard (0077033)

Trial Attorney

THOMPSON HINE LLP

3900 Key Center

Cleveland, Ohio 44114

216-566-5644

Bill.Hubbard@thompsonhine.com

Jeffrey A. Thaler (admitted *pro hac vice*)

PRETI, FLAHERTY, BELIVEAU &

PACHIOS, LLP

One City Center

P.O. Box 9546

Portland, ME 04112-9546

207-791-3213

jthaler@preti.com

ATTORNEYS FOR PLAINTIFF THE
GOODYEAR TIRE & RUBBER COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2024, a copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's Electronic Case Filing System.

/s/ William J. Hubbard

William J. Hubbard